

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PROTINGENT, INC., a Washington corporation,

Plaintiff,

v.

LISA GUSTAFSON-FEIS et al,

Defendant.

CASE NO. C20-1551-KKE

ORDER DENYING PLAINTIFF'S  
MOTION TO STRIKE AND RE-  
NOTING MOTION FOR SUMMARY  
JUDGMENT

LISA GUSTAFSON-FEIS, an individual,

Counterclaim Plaintiff,

v.

PROTINGENT, INC., a Washington corporation;  
AETNA LIFE INSURANCE COMPANY, a  
Connecticut corporation; RAWLINGS &  
ASSOCIATES PLLC, a Kentucky professional  
limited liability company

Counterclaim Defendants.

This matter comes before the Court on Plaintiff and Counter-Defendant Protingent, Inc.'s  
("Protingent") motion to strike (Dkt. No. 75), contained in its Reply to its motion for summary

1 judgment (Dkt. No. 69). For the reasons stated below, the Court denies the motion to strike and  
2 provides Protingent an opportunity to submit a supplemental Reply.

3 Protingent filed a motion for Summary Judgment on October 26, 2023, and the motion was  
4 noted for Friday, November 17, 2023. Dkt. No. 69. Under Local Civil Rule 7(d), Defendant Lisa  
5 Gustafson-Feis's Response to the motion was due on or before Monday, November 13, 2023.  
6 Gustafson-Feis, proceeding *pro se*, filed a response at 6:50 p.m. PST on Thursday, November 16,  
7 2023. Dkt. No. 74. The Response is 17 pages long and contains 112 paragraphs. *Id.* at 17.  
8 Protingent filed a Reply on Friday, November 17, 2023, requesting that the Court strike the  
9 untimely Response and providing a short Reply. Dkt. No. 75 at 1-3.

10 It is within the Court's discretion to consider an untimely response. *Hahn v. Waddington*,  
11 782 F. App'x 607, 609 (9th Cir. 2019); *N.H. Ins. Co. v. Blaze Const. Inc.*, No. 93-35096, 1994 WL  
12 274032, at \*3 (9th Cir. June 20, 1994) (citing *Cia. Petrolera Caribe, Inc. v. Arco Caribbean, Inc.*,  
13 754 F.2d 404, 408–10 (1st Cir. 1985) (it is not an abuse of discretion to consider a late response if  
14 the other party replies and is not prejudiced)). "The Supreme Court has instructed the federal  
15 courts to liberally construe the 'inartful pleading' of pro se litigants." *Eldridge v. Block*, 832 F.2d  
16 1132, 1137 (9th Cir. 1987) (quoting *Boag v. MacDougall*, 454 U.S. 364, 365 (1982)).

17 Given Gustafson-Feis's status as a pro se litigant, and the fact that the motion before the  
18 Court is dispositive, the Court exercises its discretion to DENY Protingent's motion to strike  
19 Gustafson-Feis's untimely Response. The Court admonishes the parties that future late filings are  
20 unlikely to be accepted.

21  
22  
23 //

1 If Protingent wishes to file a supplemental reply, it may do so no later than Friday,  
2 December 1, 2023. The clerk is DIRECTED to re-note Protingent's motion (Dkt. No. 69) for  
3 December 1, 2023.

4 Dated this 21<sup>st</sup> day of November, 2023.

5   
6

Kyemberly K. Evanson  
United States District Judge